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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The need for stronger mandates and concerted action on electronic waste

Introduction

The Human Rights Council has acknowledged that there is a nexus between environmental degradation and the inability to achieve the full enjoyment of human rights. First, the Council appointed a Special Rapporteur to monitor and respond to complaints of potential human rights abuses stemming from toxic waste.[1] Second, the Council appointed an Independent Expert to study the obligation of States relating to human rights and the environment.[2] Taken together, though, these mandates leave a gap in coverage. While the Special Rapporteur may monitor how toxic waste *directly* threatens human rights, the Independent Expert may only study the interrelation between member State obligations and their practices. These mandates barely deal with the long-term effects stemming from unsustainable development practices that harm the environment and, in turn, erode the full enjoyment of human rights. Thus, when considering the United Nations declaration to support and ensure sustainable development and the pervasiveness of degrading environmental policies that jeopardize the enjoyment of human rights, the Independent Expert's mandate must be strengthened.

As an initial step, Human Rights Advocates (HRA) advocates that the Independent Expert should be upgraded to the position of Special Rapporteur. An immediate consequence of this action would be to give complimentary jurisdiction to the newly vested Special Rapporteur and the existing Special Rapporteur on hazardous waste over issues such as electronic waste ("e-waste"). This should not be meant as an opening salvo to undercut the mandate of the Special Rapporteur on hazardous waste. Rather, mandate of the Special Rapporteur on hazardous waste should, at the next renewal cycle, should be reaffirmed to ensure that toxic waste does not threaten the enjoyment of human rights. By focusing on the potential dangers associated with the narrower issue of e-waste, HRA seeks to demonstrate that an equal set of tools is necessary to deal with *all* issues relating to the full enjoyment of human rights and global environmental practices. And, in doing so, HRA believes that there is a need to focus on both direct threats to human rights (which would fall under the mandate of the existing Special Rapporteur on hazardous waste) and indirect, long-term threats to the enjoyment of human rights stemming from unsustainable development practices that harm the environment (which should fall under the mandate on human rights and the environment).

The success of the Minamata Convention on Mercury points to the potential for a fledging relationship between both mandate-holders. Through efforts made jointly by the Independent Expert on human rights and the environment and the Special Rapporteur on hazardous waste, the world's first global treaty to control mercury was signed.[3] Concerted action on the part of both mandate holders would strengthen the efforts against the acceleration of e-waste and its resulting harmful effects on human rights—direct, indirect and long-term.

The Threat Electronic Waste Poses to Human Rights

E-waste poses a set of unique risks to the enjoyment of human rights, making it necessary to strengthen current monitoring tools to ensure accountability for potential human rights abuses. First, e-waste poses significant health risks to vulnerable segments of populations, namely women and children. And, the full range of health effects from e-waste processing has yet to be entirely unearthed. Second, unlike some other harmful environmental practices, hazardous e-waste processing is expected to increase exponentially. Third, the power disparity between countries receiving e-waste and the entities that export ensures inadequate compensation for the full-range of risks associated with processing. In

[1] Resolution 18/11, adopted by the Human Rights Council, U.N. Doc. A/HRC/RES/18/11 (October 13, 2011). 18/11 was a continuation of the mandate of the Special Rapporteur, which has been in existence since 1995.

[2] Resolution 19/10, adopted by the Human Rights Council, U.N. Doc. A/HRC/RES/19/10 (April 19, 2012).

[3] Minamata Convention on Mercury: UN Experts Call for a Global Response to a Global Scourge, Oct. 11, 2013, at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13850&LangID=E.

all, these circumstances lead to practices that have direct, indirect and long-term effects on human rights, including but not limited to, the right to health, food and water.

E-waste dumping cites in Agbobloshie, Ghana have been identified as posing the highest toxic threat to human life.[4] Agbobloshie imports 40,000 tons of e-waste from developed countries annually.[5] Due to inadequate waste processing mechanisms and wanting to strip goods for metals, many citizens flock to the city's scrapyard to burn the waste.[6] This practice has resulted in the population being overexposed to polychlorinated biphenyls, a chemical now banned in the United States, contaminating breast milk at unexpectedly high amounts, effecting mothers and their new born children.[7]

Compounding the complexity of environmental and social problems arising from e-waste processing is its exponential increase. This past November, a study reported that 200 hundred million people around the world are at risk to exposure of toxic waste.[8] The study covered 49 countries, and over 3,000 sites.[9] Globally, the volume of e-waste is expected to grow by 33% in the next four years.[10] Some experts have speculated that the global volume of e-waste will soon equal the weight of eight of the great Egyptian pyramids.[11]

Corporations have largely taken advantage of developing countries through e-waste exports. Developing countries "offer cheap labor and relaxed environmental regulations, allowing for the opportunity of exploitation by developed countries."[12] As a result, corporations and governments from developed countries are allowed to serve their markets by exporting waste to factories based in developing countries "that operate under the most limited public regulation of labor, production, pollution, and health and safety standards."[13] In effect, while developed countries are able to achieve a *better* standard of living, countries receiving e-waste are left with a lower standard of living.[14] Hence, the tradeoff is unequal, leaving developing countries without adequate compensation to deal with the environmental and social effects that result from the bargain.

Existing Mechanisms Dealing with Electronic Waste

Though aware of its dangers and exponential growth, the Special Rapporteur on hazardous waste has not been able to give enough attention to e-waste. HRA suggests that strengthening the Independent Expert's mandate is necessary and would allow for joint jurisdiction over the issue, promote concerted action, and thereby result in the proper oversight of the e-waste industry.

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[4] *Id.*

[5] Chris Stein, Inside Ghana's Electronic Wasteland, Al Jazeera English, Nov. 2, 2013, at http://www.aljazeera.com/indepth/features/2013/10/inside-ghana-electronic-wasteland-2013103012852580288.html.

[6] *Id.*

[7] Kwadwo Ansong Asante, et al., Human Exposure to PCBs, PBDEs and HBCDs in Ghana: Temporal Variation, Sources of Exposure and Estimation of Daily Intake by Infants, 37 Environment International 921 (2011).

[8] Siva Parmeswaran, Toxic Waste 'Major Global Threat,' BBC, Nov. 19, 2013, at http://www.bbc.co.uk/news/science-environment-24994209.

[9] *Id.*

[10] John Vidal, Toxic 'E-waste' Dumped in Poor Nations, Says United Nations, The Guardian, Dec. 14, 2013, at http://www.theguardian.com/global-development/2013/dec/14/toxic-ewaste-illegal-dumping-developing-countries.

[11] *Id.*

[12] Stephanie Tso, Upgrading Our Electronics and Downgrading Their Environment: How E-waste Recycling Has Made China Our Backyard Dumping Ground, 41 Wash. U. J. L. & Pol'y 205, 208 (2013).

[13] *Id.* at 209.

[14] *Id.*

The Special Rapporteur last addressed the issue of e-waste in 2010, considering its effects in India.[15] The Special Rapporteur noted in their report of fearing that the average rate of e-waste in India alone would more than double from 330,000 tons per year to over 800,000 tons.[16] Of special concern to the Special Rapporteur were extremely dangerous techniques used in the informal e-waste sector at small-scale workshops, which are likely to grow as the rate of e-waste increases.[17] Additional oversight is needed to ensure stopping practices like "breaking of hazardous components, open-air incineration and acid leaching to extract gold and copper."[18]

Most of the Special Rapporteur's efforts regarding hazardous waste have been devoted to issues other than e-waste.[19] In light of the Special Rapporteur's recognition that "rapid changes in technology" [20] will result in greater generation of e-waste, and reports that suggest toxic waste arising from e-waste processing will generate a public health crisis on par with malaria and tuberculosis, greater efforts must be made to ensure that e-waste does not result in violations of human rights,[21] including those related to the degradation of the environment.

Recommendations

HRA urges the Council to consider, in the next renewal cycle, strengthening the mandate of the Independent Expert on human rights and the environment. Additionally, and in consideration of the success born from concerted action, the Council should promote cooperation between both mandate holders. In doing so, the Council will begin to ensure exercising proper oversight of e-waste, limiting direct, indirect, and long-term effects of unsustainable practices on the full enjoyment of human rights.

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[15] Report of the Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, U.N. Doc. A/HRC/15/22/Add.3 (September 2, 2010).

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] Since their appointment, the Special Rapporteur has devoted most of their time addressing hazardous waste issues arising from mining, shipbreaking, dumping of hazardous substances by vessels, radioactive waste, obsolete and banned pesticides, and mercury.

[20] Report of the Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, U.N. Doc. A/HRC/15/22/Add.3 (September 2, 2010).

[21] Siva Parmeswaran, Toxic Waste 'Major Global Threat,' BBC, Nov. 19, 2013, at http://www.bbc.co.uk/news/science-environment-24994209.